

REMARKS/ARGUMENTS

After the foregoing Amendment, Claims 1, 5, 6, 10 – 11, 13, 23, 24, 26–27 and 31–32 are currently pending in this application. By this amendment claims 4, 7, 8, 25, 28 and 29 have been cancelled without prejudice. Claims 2 – 3, 9, 12, 30 and previously withdrawn claims 14 - 22 were previously canceled. Claims 1, 13 and 23 have been amended. Applicant submits that no new matter has been introduced into the application by these amendments.

Claim Rejections - 35 USC § 103

Claims 1, 4, 5-10, 13 and 23-29 and 31 were rejected under 35 USC § 103(a) as obvious over U.S. Patent No. 5,725,146 to Luberto in view of U.S. Patent No. 6,027,018 A to Yocum or U.S. Patent No. 6,068,181 A to Cai or U.S. Patent No. 6,041,997 A to Jensen.

Applicant respectfully traverses the rejection.

Independent claims 1, 13 and 23 have been amended to include additional features from a number of dependant claims.

The claims, as amended, describe a container, such as a pizza box with roll-over supporting walls, that provide and inner an outer wall. The container also includes removable portions formed in the outer wall.

When these removable portions are removed from the container, the structural integrity of the container is not compromised, as the remaining outer wall and the inner wall of the box maintain this structural integrity.

The removable portions also include indicia or markings located on the outer side of the removable portion, preferably in the form of redeemable tokens.

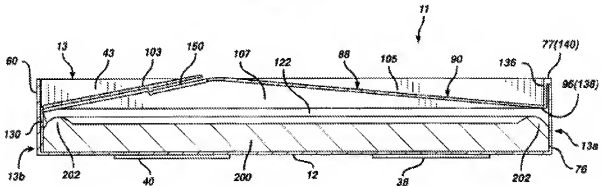
The removable portions also form tabs that protrude from the wall of the container, below the lower surface of the container. This feature provides the advantages of lifting the box base off the surface the box is placed on thus allowing air under the box. As a result, condensation between the base of the box and a table (or any other surface) is greatly reduced or eliminated. This in turn reduces soggy pizza crust and keeps the pizza hotter by reducing heat loss.

Furthermore, the coupon/token is designed in such a way to spread the moisture escape from the box more evenly. Boxes are also stackable having a sustainable distance between boxes to enhance the above features (both ends of the coupon/token can be used to separate the above and/or below pizza box/container).

The amendments to independent claims 1, 13 and 23 include features not shown in the references cited. Specifically, none of the references cited describe the use of tabs projecting from the lower surface of the container to allow for airflow/air circulation underneath the box. Although Luberto shows a pizza box with small projections, this document describes the tabs as *'extend to a position slightly below*

the lower surface of bottom panel 12 so that they can interlock with the peripheral side wall 13 of the lower box where there is a stacking relationship' (See col. 4, lines 33-36). However there is no mention or direction in this document to have the tabs suited to create airflow/circulation around the pizza base. It is further noted that the boxes of Luberto are not stackable on top of each other given the ramp-like configuration of the lid. FIG. 3 of Luberto is reproduced below.

FIG. 3



The amended independent claims recite, *inter alia*, “**at least one of the removable portions** provides at least one tab on a lower surface or edge of the container and **provides supports to elevate the assembled container** off a surface thereby allowing for air to circulate thereunder.” This is simply not shown or even possible if Luberto were to be modified since it is one of the removable portions that acts as the support.

Furthermore, The Supreme Court set forth in *KSR International Co. v. Teleflex Inc.* 550 U.S. 398 (2007), that “Rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” The Supreme Court also set forth in *KSR* that Examiners should “...be aware of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning.”

Claims 5-8, 10, 24, 26-27 and 31 are dependent upon claims 1 and 23 respectively, which the Applicant believes are allowable over the cited prior art of record for at least the same reasons provided above.

Based on the arguments presented above, withdrawal of the § 103 rejection of claims 1, 4, 5-10, 13 and 23-29 and 31 is respectfully requested.

Claims 11 and 32 were rejected under 35 USC § 103(a) as obvious over Luberto in view of Yocum or Cai or Jensen as applied to claims 1 and 23 above and further in view of U.S. Patent No. 6,153,280 to Uffmann.

Claims 11 and 32 depend from claims 1 and 23, respectively, which are believed to be allowable for at least the reasons set forth above, and should likewise be allowable. Accordingly, the §103 rejection of claims 11 and 32 is respectfully requested.

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Application No.: 10/511,177

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application, including claims 1, 5, 6, 10 – 11, 13, 23, 24, 26–27 and 31–32 is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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